



PATENT
Docket No. HYS-B2CIP/US
Express Mail Certificate No. EV 331 982 474 US


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Rupp, et al.
Serial No: 10/520,299
I.A. Serial No. PCT/US03/21703
I.A. Filing Date: 07/09/2003
For: METHODS AND
MATERIALS RELATING
TO NOVEL NUCLEIC
ACIDS AND
POLYPEPTIDES

**CERTIFICATE OF MAILING
UNDER 37 CFR 1.10**

I hereby certify that this correspondence and any documents referred to as being enclosed therewith are being deposited with the U.S. Postal Service with sufficient postage as "Express Mail Post Office to Addressee" under Express Mail Label No. EV 331 982 474 US in an envelope addressed to: Mail Stop SEQUENCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Date: October 14, 2005
Person signing Certificate: Steven C. Garland


Signature of Person

PETITION FOR FILING WHEN AN INVENTOR REFUSES TO SIGN
UNDER 37 CFR 1.47(a)

Mail Stop SEQUENCE
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

Dear Sir:

The Applicants submit this Petition for Filing when an Inventor refuses to Sign for uncooperative inventor Tom Wehrman. The circumstances are as follows:

Inventor Tom Wehrman was sent a copy of the patent application and sequence listing with a request to execute the Declaration, Power of Attorney and Assignment documents on July 25, 2005. A copy of the letter transmitting the documents is enclosed as Exhibit A.

Mr. Wehrman's current address of record is: CCSR Mol Pharm 3210, 269 West Campus Drive, Stanford, CA 94305. The package was sent via FedEx as evidenced by Exhibit B. The package was signed for receipt of these documents on July 26, 2005 at 11:52 am as evidenced by Exhibit C.

Mr. Wehrman has not returned the signed documents nor has he responded to e-mail requests by Applicants' representative for return of the documents as evidenced by Exhibit D.

Applicants respectfully request the Commissioner to declare Mr. Wehrman an uncooperative inventor and allow the remaining inventors to make the application by themselves and the nonsigning inventor.

The Commissioner is authorized to charge the Petition fee of \$130 to the Nuvelo, Inc. deposit account no. 50-1169. The Commissioner is also authorized to charge any additional fees, or credit any overpayment, to the Nuvelo, Inc. deposit account no. 50-1169. A duplicate copy of this paper is submitted.

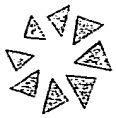
Respectfully submitted,

Date: October 14, 2005

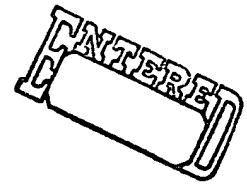
By: Renée S. Polizotto
Renée Polizotto, Ph.D.
Agent for Applicants
Reg. No. 53,474
Customer No. 34285
Nuvelo, Inc.
201 Industrial Road, Suite 310
San Carlos, CA 94070
Tel.: (650) 517.8422
Fax: (650) 571.8003

Exhibit

A



Nuvelo™



July 25, 2005

VIA FEDERAL EXPRESS

Tom Wehrman
CCSR Mol Pharm 3210
269 W. Campus Dr
Stanford CA 94305

**Re: Assignment, Declaration and Power of Attorney for HYS-B2CIP/US
Application for Signature**

Dear Tom:

Enclosed please find an assignment, declaration, and power of attorney for the HYS-B2CIP/US application (contains CEA, TaFa, FaTa, and C1q-like genes) that require your signature and the date that you signed. I am also enclosing a copy of the application on CD. Please sign and date where indicated and return the document to **me no later than August 12, 2005**. A pre-paid, pre-addressed FedEx envelope is enclosed for your convenience in returning the signed documents to us.

Before signing the documents, please verify that all your information is correct. If any changes need to be made, cross out the incorrect information, write in the correct information and initial and date next to the change.

Please contact me at 408.215.4522 or rpelizotto@nuvelo.com with any questions or concerns. I hope you are doing well.

Sincerely,

Renée Polizotto
Patent Agent

Enclosures (5)

P.S. Tom -
I think this is the last
appl. on my docket that
requires your signature.
Thanks in advance for your
help!
—Renée

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POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM

Application Number	10/520,299
Filing Date	January 4, 2005
First Named Inventor	Fabio Rupp
Title	Methods and Materials Relating to..
Art Unit	
Examiner Name	
Attorney Docket Number	HYS-B2CIP/US

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

☒ Practitioners associated with the Customer Number:

34285

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

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OR

☐ Firm or Individual Name

Address

City

State

Zip

Country

Telephone

Fax

I am the:

☒ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature		Date	
Name	Tom Wehrman	Telephone	
Title and Company			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 6 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention	METHODS AND MATERIALS RELATING TO NOVEL POLYPEPTIDES AND POLYNUCLEOTIDES
--------------------	--

As the below named inventor(s), I/we declare that:

This declaration is directed to:

☐ The attached application, or

☒ Application No. 10/520,299, filed on January 4, 2005,

☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)	
Inventor one: <u>Fabio Rupp</u>	
Signature: _____	Citizen of: <u>Switzerland</u>
Inventor two: <u>Jian Rui Wang</u>	
Signature: _____	Citizen of: <u>PR China</u>
Inventor three: <u>Ping Zhou</u>	
Signature: _____	Citizen of: <u>U.S.A.</u>
Inventor four: <u>Tom Wehrman</u>	
Signature: _____	Citizen of: <u>U.S.A.</u>
<input checked="" type="checkbox"/> Additional inventors or a legal representative are being named on <u>1</u> additional form(s) attached hereto.	

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 minute to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN
APPLICATION DATA SHEET (37 CFR 1.76)**

Title of Invention	METHODS AND MATERIALS RELATING TO NOVEL POLYPEPTIDES AND POLYNUCLEOTIDES
-------------------------------	---

As the below named inventor(s), I/we declare that:

This declaration is directed to:

☐ The attached application, or

☒ Application No. 10/520,299, filed on January 4, 2005,

☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)	
Inventor one: <u>Zhiwei Wang</u>	
Signature: _____	Citizen of: <u>PR China</u>
Inventor two: <u>Yuanhua T. Tang</u>	
Signature: _____	Citizen of: <u>U.S.A.</u>
Inventor three: _____	
Signature: _____	Citizen of: _____
Inventor four: _____	
Signature: _____	Citizen of: _____
<input checked="" type="checkbox"/> Additional inventors or a legal representative are being named on <u>1</u> additional form(s) attached hereto.	

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 minute to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

ASSIGNMENT

Serial No: 10/520,299
Filed: January 4, 2005
Title: METHODS AND MATERIALS RELATING TO NOVEL POLYPEPTIDES AND
POLYNUCLEOTIDES

For One Dollars (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby assign to Nuvelo, Inc., a Delaware corporation, 675 Almanor Avenue, Sunnyvale, California, 94085, (hereinafter "Assignee"), its successors and assigns, the entire right, title and interest in the invention or improvements of the undersigned disclosed in the above-identified application for Letters Patent of the United States, and in said application and any and all other applications, both United States and foreign, which the undersigned may file, either solely or jointly with others, on said invention or improvements, and in any and all Letters Patent of the United States and foreign countries, which may be obtained on any of said applications, and in any reissue or extension thereof.

The undersigned hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said assignee.

The undersigned hereby authorize and request the attorneys of record in said application to insert in this assignment the execution date and/or filing date and serial number of said application when officially known.

The undersigned warrant themselves to be the owners of the interest herein assigned and to have the right to make this assignment and further warrant that there are no outstanding prior assignments, licenses, or other rights in the interest herein assigned.

For said consideration the undersigned hereby agree, upon the request and at the expense of said assignee, its successors and assigns, to execute any and all divisional, continuation, continuation-in-part and substitute applications for said invention or improvements, and any necessary oath or affidavit relating thereto, and any application for the reissue or extension of any Letters Patent that may be granted upon said application, and any and all applications and other documents for Letters Patent in foreign countries on said invention or improvements, that said assignee, its successors or assigns, may deem necessary or expedient, and for said consideration the undersigned further agree upon the request of said assignee, its successors or assigns, in the event of any application or Letters Patent assigned herein becoming involved in Interference, to cooperate to the best of the ability of the undersigned with said assignee, its successors or assigns, in the matters of preparing and executing the preliminary statement and giving and producing evidence in support thereof, the undersigned hereby agreeing to perform, upon request, any and all affirmative acts to obtain said Letters Patent, both United States and foreign, and vest all rights therein hereby conveyed in said assignee, its successors and assigns, whereby said Letters Patent will be held and enjoyed by said assignee, its successors and assigns, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held and enjoyed by the undersigned if this assignment and sale had not been made.

Date

Fabio Rupp

Date

Jian Rui Wang

Date

Ping Zhou

Date

Tom Wehrman

Date

Zhiwei Wang

Date

Yuanhua T. Tang

From: Origin ID: (408)215-4381
Legal Department
Nuvelo, Inc.
675 Almanor Ave
Legal Department
Sunnyvale, CA 94085



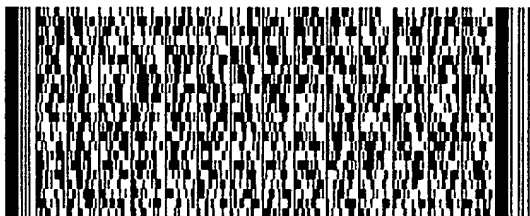
CL5861203/03/15

SHIP TO: (650)723-7855

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Tom Wehrman

CCSR Mol Pharm 3210
269 West Campus Drive
Stanford, CA 94305



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REF: HYS-B2CIP/US



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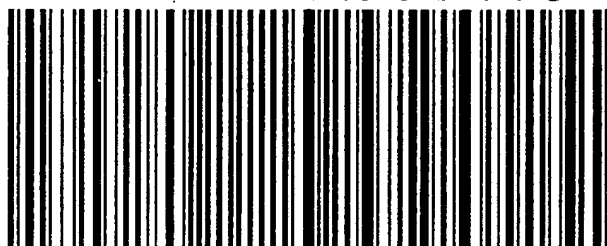
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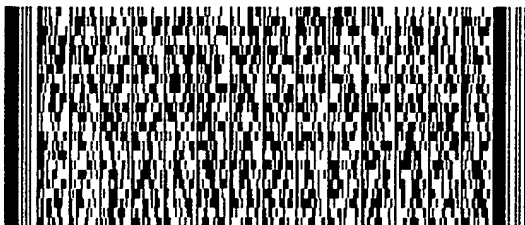


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Renee Polizotto
Nuvelo, Inc.
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Sunnyvale, CA 94085



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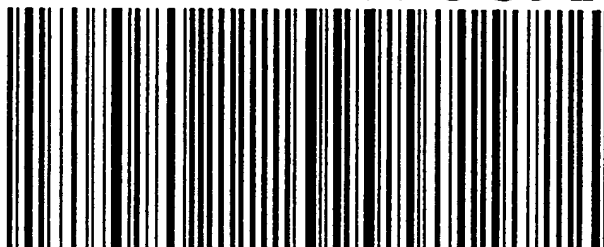
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HYS-B2 Application as filed
- CONFIDENTIAL -

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Renée Polizotto

From: Renée Polizotto
Sent: Thursday, September 01, 2005 2:14 PM
To: 'wehrman@stanford.edu'
Subject: patent documents to sign

Hi Tom,

Last month I sent you an assignment to sign for a US patent application (Docket No. HYS-B2CIP/US). At your earliest convenience, please return the signed document to me as I need to file the papers with the US patent office next month. If you have any questions, please let me know. I really appreciate your cooperation with this matter. Thanks in advance.

Best regards,
Renée

Renée S. Polizotto, Ph.D.
Patent Agent
Nuvelo, Inc.
675 Almanor Avenue
Sunnyvale, CA 94085
Phone: 408-215-4522
FAX: 408-524-8145
e-mail: rpolizotto@nuvelo.com
<http://www.nuvelo.com>

9/9/2005

Renée Polizotto

From: Tom Wehrman [wehrman@stanford.edu]
Sent: Thursday, September 01, 2005 3:35 PM
To: Renée Polizotto
Subject: Read: patent documents to sign



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(255 B)

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Renée Polizotto

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patent documents
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wehrman@stanford.edu

Renée Polizotto

From: Renée Polizotto
Sent: Friday, September 09, 2005 9:21 AM
To: 'wehrman@stanford.edu'
Subject: Patent documents to sign--2nd reminder

****2ND REMINDER****

Hi Tom,

Last month I sent you an assignment to sign for a US patent application (Docket No. HYS-B2CIP/US). At your earliest convenience, please return the signed document to me as I need to file the papers with the US patent office next month. If you have any questions, please let me know. I really appreciate your cooperation with this matter. Thanks in advance.

Best regards,
Renée

Renée S. Polizotto, Ph.D.
Patent Agent
Nuvelo, Inc.
675 Almanor Avenue
Sunnyvale, CA 94085
Phone: 408-215-4522
FAX: 408-524-8145
e-mail: rpelizotto@nuvelo.com
<http://www.nuvelo.com>

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